IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/650,564)	Title:
•••)	Intra-Frequency Searching in the
Patent No.: 7,917,163)	Presence of Frequency Gaps
Inventor(s) : Messay Amerga)	
Attorney Docket No.: 020673	\sim	Filing Date: August 27, 2003
Group Art Unit: 2618)	Issue Date : March 29, 2011

DECLARATION OF VENUGOPAL MENON

- I, Venugopal Menon, declare as follows:
- I am an employee of MaxVal Group, Inc. (hereinafter "MaxVal"), located at 2251 Grant
 Road, Suite B, Los Altos, CA 94024, which provides patent related services to Qualcomm
 Inc. (hereinafter "Qualcomm") located at 5775 Morehouse Drive, San Diego, CA 92121, the
 owner/assignee of the above referenced patent. MaxVal performs Patent Term Adjustment
 (hereinafter "PTA") verifications on behalf of Qualcomm. My responsibility, as a PTA Team
 Lead in MaxVal, is to perform PTA calculations before they are mailed out to Qualcomm.
- 2. I created a process and trained my team to follow such process to extract IFW and PTA data from Public PAIR in order to perform PTA verifications. The process steps included copying the table from the "Patent Term Adjustments" tab in the record of an application from Public PAIR and pasting it into an Excel spreadsheet (I named this tab on the Excel spreadsheet "PTO-PTA"). During the normal course of business within my duty to perform the above responsibility in calculating the PTA of the above referenced application, I cross-checked my calculations from the process against the values that appeared in the PTO-PTA tab. I emailed this Excel spreadsheet to Qualcomm upon completion of the verification exercise. The Excel spreadsheet that was used to compute PTA at the Notice of Allowance for the above captioned case is attached as Exhibit A.

Application No.: 10/650,564 Patent No.: 7.917,163 I believed that even though the PTO-PTA tab of the Excel spreadsheet may not have been a static screen capture of the "Patent Term Adjustments" tab from Public PAIR, the cells of the PTO-PTA sheet contained unaltered PTA data, such as that shown in sheets 4 and 5 of Exhibit A.

On November 30, 2010, a Notice of Allowance (hereinafter "NOA") for the above captioned application, which subsequently issued as the above-captioned patent (hereinafter the "163 patent") was mailed to Qualcomm. The PTA page of the NOA letter is attached herewith as Exhibit B. The NOA published a PTA of 697 days. The delay values I used in calculating PTA for the above-captioned application were as follows:

- A delays 961 days;
- Non-overlapping USPTO Delays 961 days;
- · Applicant Delays 264 days.

My calculation of 697 days of PTA (961 days of Office A-delay less 264 days of Applicant Delay) was based on the values as shown in Exhibit A and was in agreement with the USPTO's value as shown in the NOA (see Exhibit B)

On January 12, 2011, I emailed the results of the PTA verification to Qualcomm.

On March 29, 2011, the '163 patent issued with a PTA of 856 days. The USPTO's calculation was based on the following delay periods (taken from the PTA tab on Public PAIR after issuance):

- A Delays 961 days:
- B Delays 582 days;
- Overlapping delays between {A and B} or {A and C} 292 days;
- Non-overlapping USPTO Delays 1251 days;
- · Applicant Delays 395 days.

However, my calculation yielded 987 days of PTA. The Applicant Delay used in my calculation was the same value as it was in the NOA case, viz. 264 days.

When I noticed the difference in the total Applicant Delay (and consequently, the PTA) arrived at by the USPTO and my team in MaxVal, I compared the PTO-PTA tab of

Application No.: 10/650,564 Patent No.: 7.917,163 the Excel spreadsheet that we mailed to the client in January 12, 2011 (Sheets 4 and 5 of Exhibit A) against the PTA tab of the issued patent in Public PAIR and noticed the discrepancy described below. A copy of the screen capture of the PTA tab from PAIR is attached herewith as Exhibit C which shows a 131-day applicant delay entered in line 59 of the IFW (corresponding to the transaction "PETITION TO REVIVE APPLICATION — GRANTED" dated 5/17/2010) that was missing in the PTA tab on PAIR at Allowance.

On May 2, 2011, I brought this discrepancy to the attention of the Qualcomm attorney responsible for PTA.

- Prior to the events described above, I personally had not seen another instance of a PTA calculation where the USPTO inserted a delay period (pre-dating the NOA date) into the record after accepting the payment of issue fees.
- 4. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. These statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of this patent issued from the application.

Signed:

Venugopal Menon

Date: May 26, 2011

Application No.: 10/650,564 Patent No.: 7.917,163 EXHIBIT A EXHIBIT A

PTA CALCULATION FOR 10/650,564

Application No.	10/656,564	
) Title	INTRA-FREQUENCY SEARCHING IN THE PRESENCE OF FREQUENCY GAPS	
Filing or 371(c) Date	8/27/2003	
NOA Date	11/30/2010	
3 Year out off date	8/27/2006	
A (PTO)	961	
А (Арайсаяц)	264	
	0	not calculated for NO/
A-B oyentro	0	
PEO ealcolated PTA	697	
Extension	697	
Potential extension beyond PTO-calculates PM	19	

Extension calculated under 35 USC 154(b) in view of the Wyeth decision.

Terminal Disclaimer.	N/A

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23,2007	355	LST OF REFERENCES CITED AT EXAMINED
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115/2009	44,485	SPARICH WEGTSTAATUUM UNGLITTIMUS GLASSPIKATRON, DATTARANSIS AARD GFINER SPARICH BEVLATED NICHES
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803/2003	26.00	DRAWINGS ONLY BLACK AND WASTELING ORANINGS
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8000/62/	37955	FRE WORKSHIEF (#10.0.174)
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Paueut Term Adjustment

Filing or 371(c) Date:	8/27/2003	Overlapping Days Between (A and B) or (A and C):	0
issue Date of Patent:		Non-Overlapping USPTO Delays:	961
A Delays.	961	PTO Manual Adjustments:	0
B Delays:	9	Applicant Délayss	264
C Delays:	0	Total PTA Adjustments:	697

Patent Term Adjustment History		Shanstion Of Calculations		
Numb	er Date	Confents Description	PTO(Days) - APPL(Days)	Start
85	2010-11-30	MAIL NOTICE OF ALLOWANCE		0
84	2010-11-23	ISSUE REVISION COMPLÉTED		0
\$3	2010-11-23	DOCUMENT VERIFICATION		G
82	2010-11-23	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED		0
81	2010-11-18	EXAMINER'S AMENUMENT COMMUNICATION		0
80	2010-11-18	NOTICE OF ALLOWABILITY		0
78	2010-9-22	DATE FORWARDED TO EXAMINER		0
77	2010-9-21	RESPONSE AFTER NON-FINAL ACTION		0
76	2010-6-24	ELECTRONIC REVIEW		0
75	2010-6-24	EMAIL NOTIFICATION		lo .
74	2010-6-24	MAIL NON FINAL REJECTION		0
73	2010-6-21	NON-FINAL REJECTION		0
72	2010-6-14	DATE FORWARDED TO EXAMINER		0
71	2010-3-5	RCE- AF PROCESSED		0
70				46
	2010-5-18	REQUEST FOR CONTINUED EXAMENATION (RCE)	235	
59	2010-6-14	DISPOSAL FOR A RCE / CPA / R129		0
58	2010-6-4	EMAIL NOTIFICATION		0
87	2010-5-28	DATE FORWARDED TO EXAMINER		G
56	2010-6-2	MAIL NOTICE OF RESCINDED ABANDONMENT		a
65	2010-5-28	NOTICE OF RESCINDED ABANDONMENT IN TCS		0
54	2010-5-21	ELECTRONIC REVIEW		0
63	2010-5-21	EMAIL NOTIFICATION		0
62	2010-5-20	EMAIL NOTIFICATION		0
61	2010-5-21	PG-PUB NOTICE OF NEW OR REVISED PROJECTED PUBLICATION DATE		0
50	2010-5-18	MAIL-PETITION TO REVIVE APPLICATION - GRANTED		0
59	2010-5-17	PETITION TO REVIVE APPLICATION - GRANTED		0
58	2010-3-5	PETITION ENTERED		0
57	2010-3-5	WORKFLOW - REQUEST FOR RCE - BEGIN		ő
56	2010-1-6	EMAIL NOTIFICATION		0
55	2010-1-6	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE		0
54	2010-1-4	ABAND, FOR FAILURE TO RESPOND TO O. A.		Ü
53	2009-9-3	EMAIL NOTIFICATION		0
52	2009-9-1	MAIL ADVISORY ACTION (PTOL - 303)		0
51	2009-8-28	ADVISORY ACTION (PTOL-303)		o .
50	2009-8-26	DATE FORWARDED TO EXAMINER		0
49	2009-8-25	AMENDMENT AFTER FINAL REJECTION		0
48	2009-6-25	ELECTRONIC REVIEW		0
47	2009-6-25	EMAB. NOTIFICATION		0
46	2009-6-25	MAIL FINAL REJECTION (PTOL - 326)		0
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13		RESPONSE AFTER NON-FINAL ACTION		
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42	2008-12-12	ELECTRONIC REVIEW		0
41	2008-12-12	EMAIL NOTIFICATION		0
40	2008-12-12	MAIL NON-FINAL REJECTION		0
39	2008-12-8	NON-FINAL REJECTION		0
37	2008-10-5	DATE FORWARDED TO EXAMINER		Ü
36	2008-6-27	RESPONSE AFTER NON-FINAL ACTION		0
35	2008-5-30	ELECTRONIC REVIEW		0
34	2008-5-29	EMAIL NOTIFICATION		0
33	2008-5-29	MAIL NON-FINAL REJECTION		0
32	2008-5-23	NON-FINAL REJECTION		0
31	2038-4-16	DATE FORWARDED TO EXAMINER		0
3G	2008-4-1	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE		0
29	2008-9-16	DATE FORWARDED TO EXAMINER		0
18	Z008-4-1	REQUEST FOR CONTINUED EXAMINATION (RCE)	29	22
27	2008-4-16	DISPOSAL FOR A RCE / CPA / R129		0
26	2008-4-1	REQUEST FOR EXTENSION OF TIME - GRANTED		0
25	2008-4-1	WORKFLOW - REQUEST FOR RCE - BEGIN		0

24	2007-12-5	ELECTRONIC REVIEW	I	lo lo
23	2007-12-4	EMAIL NOTIFICATION		lo lo
22	2007-12-3	MAIL FINAL REJECTION (PFOL - 326)		0
21	2007-11-26	FINAL REJECTION		0
30	2007-9-19	DATE FORWARDED TO EXAMINER		0
19	2007-9-11	RESPONSE AFTER NON-FINAL ACTION		0
18	2007-6-21	ELECTRONIC REVIEW		0
17	2007-6-26	EMAIL NOTIFICATION		0
16	2007-6-15	MAIL NON-FINAL REJECTION	961	0.5
15	2907-6-7	NON-FINAL REJECTION		0
14	2907-4-17	CASE DOCKETED TO EXAMINER IN GAU		0
13	2007-4-12	IPW TSS PROCESSING BY TECH CENTER COMPLETE		0
12	2007-4-11	CASE DOCKETED TO EXAMINER IN GAU		0
11	2006-12-12	TRANSFER INQUIRY TO GAU		0
10	2006-8-3	TRANSFER INQUIRY TO GAU		0
9	2004-1-26	TRANSFER INQUIRY TO GAU		0
8	2003-11-19	APPLICATION RETURN FROM OIPE		0
7	2003-11-19	APPLICATION RETURN TO CIPE		0
6	2003-11-19	APPLICATION DISPATCHED FROM DIPE		0
5	2003-11-19	APPLICATION IS NOW COMPLETE		0
4	2003-11-10	CASE CLASSIFIED BY OUPE.	i	0
J	2003-11-10	CLEARED BY OIPE CSR		0
2	2003-10-14	IFW SCAN BAMP; PACR AUTO SECURITY REVIEW		0
1	2003-8-27	INITIAL EXAM TEAM NN		0
0.5	2003-8-27	FILING DATE		0

NOA

B Delays

Date

Days

Filing Date (Actual whether national or NP) Issue Date

8/27/2003

3 year cut-off date First RCE Filing Date 8/27/2006

B Delay (a)

Secrecy Order

Appeal

-38,956

Interference
Interference Declared Date

Interference Terminated Date

(Day) Notice of Appeal Filed Date

(Day) Decision Date

Secrecy Order Filed Date Secrecy Removed Date

Applicant requested Delays

Start Date End Date

B DELAY

0

EXHIBIT B



UNITED STATES PAIENT AND TRADEMARK OFFICE

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 697 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Thesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 697 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more denated information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (871):227-702. Questions relating to issue and publication for purynems should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (871)-272-4796.

10/8/59, 654	a exiti	RAFREGUENCY SEZ	SPCHARGIN THE PRESENCE OF FREQUENCY GAPS $-rac{0545}{2014}$	15:03 35	
Patent 1	Ferm Adi	ustments			
A			cation Number: 10/650.564		
	71(c) Dete		Overlapping Days Between (A and 6) or (A and C):	292	
	te of Parer		Non-Overlapping USPTO Delays:	1251	
A Delays:		961	PTO Manual Adjustments:	Ö	
8 Delays:		285	Applicant Delays:	395	
C Delays:		Ö	Total PTA Adjustments:	856	
		mene History	Explanation Of Calculations		
Number	Date	Contents Descrip	tion PTO(Days) APPL(Days)	Start	
97.5	03-31- 2008	PTA 36 Months	502	6.5	
97	03-29- 2011	Patent Issue Date	Used in PTA Calculation	S	
96	03-02- 2011	Export to Finel Da	ta Captura	0	
95	02-25- 2011	Dispatch to FDC		8	
94	02-25- 2011	Application Is Con	sidered Ready for Issue	0	
92	03-23- 2011	Issue Fee Paymes	të Vershed	0	
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91	01-19-	Finished Initial Da	ta Capture	0	
85	11-30-	Mail Notice of Allor	wante.	0	
84	11-23- 2010	Issue Revision Co	mpleted	0	
¥3	31-23- 2010	Occument Verifica	tion	0	
82	11-23-	Notice of Allowand	e Data Verification Completed	o	
81	11-18-	Examiner's Americ	iment Communication	0	
80	11-18-	Allowability Notice		0	
78	09-22- 2010	Date Forwarded t	a gratiquet	S	
77	09-21-	Response after No	on-Final Action	S	
76	06-34- 2010	Electronic Review		8	
75	06-24- 2010	Email Notification		0	
74	06-24- 2010	Mali Non-Final Rej	ection	9	
73	06-21-	Non-Final Refectio	90	ø	

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72	2010 06-14- 2010	Date Forwarded to Exeminer		S
71	03-05- 2010	RCE- AF Processed		0
76	05-18- 2010	Request for Continued Examination (RCF)	235	46
69	06-14- 2010	Disposal for a RCE / CPA / R129		0
69	06-04- 2010	Email Notification		S
67	2010	Date forwarded to Examiner		0
66	2010	Rail Notice of Rescinded Abandonment		0
65	2010	Notice of Rescinded Abendonment in TCs		ø
64	05-21- 2010	Electronic Review		Q
63	05-21- 2010	Email Notification		٥
62	05-20- 3010	Email Notification		٥
61	05-31- 2010	PG-Fug Nation of new or Revised projected publication date		0
60	05-18- 2016	Mail-Patition to Revive Application - Granted		0
59	05-17- 2010	Petition to Revive Application - Granted	131	53
58	03-05- 2010	Patition Entered		S
57	03-05- 2010	Warkflow - Request for RCE - Segin		0
98	01-06- 2010	Email Notification		0
55	01-06- 2010	Mail Abandonment for Fallure to Respond to Office Action		0
54	01-04- 2010	Aband, for Fasure to Respond to D. A.		S
\$3	09-01- 2009	Email Notification		0
92	2009	Hall Advisory Action (PYOL - 303)		0
83	08-28- 2009	Advisory Action (PTOL-363)		ø
50	2009	Date forwarded to Examiner		0
49	00-25- 2009	Amendment after Final Rejection		0
48	06-25- 2009	Electronic Review		2
47	08-25- 2009	Email Notification		9
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46	06-25- 2009	Mail Final Rejection (PTOL - 326)	0
45	56-22- 2009	Final Rejection	9
44	54-17- 2059	Date Farwarded to Examiner	0
43	03-05- 2009	Response after Non-Final Action	0
42	12-12-	Electronic Review	0
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40	12-12-	Mail Non-Pinal Pajection	0
39	12-08-	Non-Pinal Rejection	\$
37	10-05-	Date Forwarded to Examiner	9
36	08-27- 2008	Response after Non-Final Action	0
35	95-30- 2008	Electronic Review	٥
24	08-29- 2006	Email Notification	0
23	05-29- 2008	Heil Non-Final Rejection	9
32	09-23- 3008	tion-Final Rejection	9
33	04-16- 2008	Date Forwarded to Examiner	۵
30	04-01- 1000	Amendment Submitted/Entered with Filing of CPA/RCB	8
29	04-15- 2008	Cate forwarded to Exammer	4
28	04-01- 2008	Request for Continued Exemination (RCE)	29 22
27	04-16- 2008	Disposal for a RCE / CPA / R129	0
26	04-01- 2008	Request for Extension of Time - Granted	0
25	04-01- 2008	Workflow - Request for RCE - Begin	Q
24	2007	Electronic Review	0
23	12-04-	Email Notification	\$
32	12-03-	Mail Final Rejection (PTOL - 336)	0
21	11-26- 2007	final Rejection	9
20	09-19- 2007	Date Forwarded to Exammer	9
portal uspec	.gov/1948	RPsort Servini	3/4

5/25/2011		portalianotrogos/external/PA_Pasii/aic/P		
19	2907	Response after Non-Final Action		0
18	2007	Sections Review		0
17	96-29- 2907	Email Notification		0
18	06-15- 2007	Mail Non-Email Rejection	961	0.5
15	96-97- 2907	Non-Final Rejection		0
14	04-17- 2907	Case Docketed to Exammer in GAU		٥
13	04-12- 2007	IFW TSS Processing by Tech Center Complete		٥
12	04-11-	Case Docketed to Examiner in GAU		0
81	12-12-	Transfer Inquiry to GAU		0
10	08-03- 2006	Transfer Inquiry to GAU		0
9	01-26- 2004	Transfer Inquiry to GAU		9
8	11-19-	Application Return from OIPE		0
7	11-19-	Application Return TO OIPE		٥
6	11:19: 2003	Application Dispatched from OIPE		٥
5	211-19-	Application Is Now Complete		٥
4	11-10-	CASE CLASSIFIED BY OIPE		0
3	11-10-	Cigared by OIPE CSR		6
2	10-14- 2003	IFW Scan & PACR Auto Security Review		8
1	08-27- 2003	Initial Exam Team no		0
8.8	08-27- 2003	Filmg date		0

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